

## REMARKS

Applicant has carefully reviewed the Official Action originally dated December 5, 2006 and re-started as of December 21, 2006 for the above identified patent application.

At page 2, paragraphs 2 and 3 of the Official Action, the Specification has been objected to on the grounds that both the Abstract of the Disclosure and page 3 of the Specification, identify different elements using the same reference numeral 5. At page 2, paragraph 4 of the Official Action, Claim 1 has been objected to on the same grounds.

In response to the objection to the Specification and the claims, Applicant has amended the Abstract, pages 2 and 3 of the Specification, and independent Claims 1 and 8 to recite a "tool (5) or working implement". It is clear from both the original Specification and the claims that the terms "tool" and "working implement" are intended to be equivalents for the purpose of the invention. Therefore, it is proper to recite these elements in the alternative, in both the specification and the claims, and the claims are not rendered indefinite as a result of the use of the alternative terminology. See Manual Of Patent Examining Procedure, 8th edition, Rev. 5, August 2006, Sec. 2173.01.

Applicant respectfully submits that the revisions to the form of the Specification and claims made herein overcome the

objections to the Specification, Abstract and Claims raised at page 2, paragraphs 2, 3, and 4 of the Official Action.

At page 3, paragraph 6 - 7 of the Official Action, independent Claims 1 and 8 have been rejected under 35 U.S.C. Section 112, second paragraph, as being indefinite. The basis for the formal grounds of rejection of independent Claims 1 and 8 is that both of these terms include the indefinite expression "or the like".

In response to the formal grounds of rejection, independent Claims 1 and 8 have been amended to delete the expression "or the like" from the respective claims at all occurrences. Applicant respectfully submits that the revisions to the form of independent Claims 1 and 8 overcome the formal grounds of rejection raised at page 3, paragraphs 6 - 7 of the Official Action.

At page 3, paragraph 9 of the Official Action, Claims 1 - 20 have been rejected under 35 U.S.C. Section 102(b) as being anticipated by the Harr publication (WO 00/53522). The basis for the rejection of the claims as being anticipated by the Harr publication is discussed at pages 4 - 6 of the Official Action.

For the reasons to be discussed, Applicant respectfully disagrees with the basis for the prior art rejection of the claims, and requests that the prior art rejections be

reconsidered and withdrawn. For purposes of simplifying the issues, the prior art rejection of Applicant's claims will be discussed with respect to only independent Claims 1 and 8.

Applicant initially notes that the Harr publication is owned by the current Applicant, and was included in the Information Disclosure Statement filed with the original papers for the present patent application. The present application is the United States National Phase of PCT/SE03/1546, and a copy of the Written Opinion of the International Searching Authority for the corresponding PCT application was also included with the previously filed Information Disclosure Statement. The Written Opinion considered the Harr publication applied to reject the claims in the outstanding Official Action for the present application, and concluded that the revised PCT claims, which correspond to the claims of the present United States National Phase, are patentable over the Harr publication.

Independent Claims 1 and 8, as pending in the present application, include both a "preamble" and a "characterised" clause. The preamble, which covers the recitation in the claims through the expression "characterised in that", represents known prior art. The recitation in the claims following the expression "characterised in that" represents the improvement of the claimed invention (e.g., apparatus and method) over the known prior art.

Applicant notes that independent Claims 1 and 7 of the Harr publication, and independent Claims 1 and 8 of the present application, have similar preambles because the respective claims are directed to similar general type devices, and address similar problems to be solved. However, the "characterised" clause of the independent claims of the Harr publication, and that of the independent claims of the present application, are significantly different in both structure and structural arrangement. More specifically, the device disclosed and claimed in the applied Harr publication includes a slot (64) in a brake disk (60) for accommodating a brake unit fastener device (71). In the preferred embodiment disclosed and claimed in the Harr publication, the slot (64) is an arcuate slot, and the fastener device (71) is arranged to slide in the arcuate slot in the brake disk during the pendulum movement/swinging movement to be dampened by the disclosed device.

Contrary to the disclosure of the applied Harr publication, Applicant's independent apparatus Claim 1, and Applicant's independent method Claim 8, are directed, respectively, to different structure and structural arrangement of a swing damping device, and to different steps for operating a swing damper. More specifically, the structure and structural arrangement of the brake arrangement specifically defined in the "characterised" portion of pending independent apparatus Claim 1, and the specific method of operation of the swing damper defined in the characterised clause of pending independent Claim 8, are

distinctly different from the apparatus and methods disclosed and claimed in the applied Harr publication. As noted, the apparatus and methods disclosed and claimed by the applied Harr publication are directed to a brake disk defining an arcuate slot for accommodating a brake unit fastener device so that the fastener device slides in the arcuate slot of the brake disk during pendulum movement/swinging movement to be dampened by the apparatus and method disclosed in the applied Harr publication.

Contrary to the apparatus and method disclosed in the applied Harr publication, the apparatus and method disclosed by Applicant and defined in independent Claims 1 and 8 does not employ an arcuate slot in a brake disk, or a fastener device slideable in the arcuate slot of the brake disk during pendulum movement/swinging movement to be dampened. On the contrary, the apparatus and method disclosed by Applicant and defined by pending independent Claims 1 and 8, respectively, employs a braking arrangement having different structure, different structural arrangement, and operates differently from the braking arrangement disclosed in the Harr publication. The differences are readily apparent from a comparison of the specific features of the "characterised clause" of Applicant's pending independent Claims 1 and 8 with the "characterised clause" of independent Claims 1 and 7 of the applied Harr publication.

It is axiomatic that a rejection of a claim as being anticipated by a prior art reference requires the Patent &

Trademark Office to establish a strict identity of invention between the rejected claim and a single applied prior art reference. Stated in other words, a rejection of a claim as being anticipated by a prior art reference is improper unless a single applied prior art reference teaches all features of the rejected claim, as arranged in the claim. See, for example, Connell v. Sears, Roebuck & Co., 220 USPQ 193 (Fed. Cir. 1983).

Although the basic, general objective of the present patent application and that of the applied Harr publication are similar, the specific apparatus and method disclosed and claimed to implement the respective objectives are distinctly different from each other. As discussed herein, the structure, arrangement of structure, and method of operation of the brake arrangement of the swing damper and method of dampening disclosed in Applicant's specification and defined by pending independent Claims 1 and 8, are not taught by the applied Harr publication, and thus there is clearly no strict identity of invention between independent Claims 1 and 8 and the disclosure of the applied Harr publication. Accordingly, the Harr publication does not anticipate either independent Claims 1 or 8, when all positively recited features of these claims are considered in the patentability determination.

Moreover, although none of Applicant's claims were rejected under 35 U.S.C. Section 103(a), any rejection of these claims as being obvious over the Harr publication would likewise be

inappropriate. There is clearly no suggestion in the disclosure of the applied Harr publication of the specific structure, structural arrangement and operation of the braking arrangement, disclosed and claimed by Applicant in the characterised clauses of both independent Claims 1 and 8, when all positively recited features of these claims are considered in the patentability determination.

Applicant respectfully submits that independent Claims 1 and 8 are in condition for allowance. Accordingly, each of the remaining claims, which depends from at least one of the two independent claims and includes all features of its respective parent independent claim, are allowable, at least for the same reasons as their respective parent independent claims.

As noted above, the present application is the United States National Phase of International Patent Appl. PCT/SE03/1546. The United States patent application has claimed priority from Swedish Patent Appl. 0202945-2. However, the cover sheet of the Official Action fails to acknowledge the claim for priority, or that the copy of the priority document has been received from the International Bureau to perfect the claim for priority from the corresponding Swedish patent application. Applicant respectfully requests that the claim for priority, and the receipt of the copy of the priority document from the International Bureau, be acknowledged by the Patent & Trademark Office.

Enclosed is a Petition for a one (1) month extension of time for responding to the outstanding Official Action, together with the fee for the requested extension of time at the small entity rate. Applicant has previously qualified to pay fees in connection with this patent application as a small entity.

Applicant respectfully submits that this patent application is in condition for allowance, and favorable action is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark P. Stone', written in a cursive style.

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REPLACEMENT PARAGRAPHS  
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Fig. 1 shows an inventive swing damper 1 that is pivotally mounted on the tip of a crane arm 2 through the medium of a pivot joint/bearing 3. The swing damper 1 carries at its lower end a rotator 4, which, in turn, carries a tool 5 or working implement in the form of a gripping device ~~5~~.

The pivot joint/bearing 3 permits free pendulous movement/pivotal movement about a shaft 6, and the rotator 4 enables the gripping device ~~5~~ to be maneuvered ~~manoeuvred~~ rotatably, said rotator being driven hydraulically in the illustrated embodiment. Hydraulic hoses connected to the rotator and the gripping device have not been shown for the sake of clarity.

REPLACEMENT PARAGRAPH  
ABSTRACT OF THE DISCLOSURE

The present invention relates to an arrangement and to a method relating to a swing damper (1) for carrying a tool (5) that hangs from a crane arm (2) ~~or the like~~ . The swing damper (1) includes an upper part (11) ~~that is~~ connected to the crane arm (2), and a lower part (12) that carries a working implement (5) ~~or the like~~ either directly or via a rotator (4), ~~for instance~~ . The upper ~~part (11)~~ and the lower ~~part (12)~~ parts are pivotally connected ~~to one another~~ via a pivot joint (13). The swing damper (1) also includes a brake arrangement (50) ~~. The brake arrangement (50)~~ includes including a brake unit (60) ~~that has~~ having discs (70, 80) ~~which are~~ pivotal about a ~~the~~ pivot shaft (14) of the swing joint (13), ~~wherein~~ at least one (70) of ~~said the~~ discs being is secured against rotation relative to the upper part (11), and ~~wherein~~ at least one (80) of ~~said the~~ discs being is secured against rotation relative to said lower part (12). ~~The arrangement also includes , and a~~ tensioning element (90; 110; 130) , for pressing which ~~functions to press~~ the discs (70, 80) together in a braking operation. ~~The brake unit (60) is situated in a space (200) between two pivot bearings (46) between the upper part (11) and the lower part (12).~~